

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In the Matter of:

**A VAN LINES, LLC,

Respondent.**

**Docket No. FMCSA-2009-0167¹
(Southern Service Center)**

ORDER APPOINTING ADMINISTRATIVE LAW JUDGE

1. Background

On March 10, 2009, Claimant, the Field Administrator for the Southern Service Center of the Federal Motor Carrier Safety Administration (FMCSA), issued a Notice of Claim to Respondent, A Van Lines, LLC, proposing a civil penalty of \$92,200 for 11 alleged violations of the Federal Motor Carrier Commercial Regulations (FMCCRs). Specifically, the Notice of Claim, which was based on a February 19, 2009, compliance review (CR), charged Respondent with: (a) one violation of 49 CFR 375.209(b), with a proposed civil penalty of \$1,100, for producing a summary of its complaint and inquiry-handling program that does not meet the regulatory requirements; (b) one violation of 49 CFR 375.211(b), with a proposed civil penalty of \$1,100, for failing to produce a concise, easy-to-read, accurate summary of its arbitration program; and (c) nine violations of 49 CFR 375.407(a), with a proposed civil penalty of \$10,000 per count, for failing to relinquish possession of household goods shipments after the shippers paid at least 110

¹ The prior case numbers of this matter were GA-2009-0122-US0131 and GA-2009-0134-US0131.

percent of the approximate costs of non-binding estimates.²

On March 11, 2009, the Georgia Division Administrator, FMCSA, issued a Notice of Claim to Respondent, proposing a civil penalty of \$2,200 for three alleged violations of the Federal Motor Carrier Safety Regulations (FMCSRs). Specifically, the Notice of Claim charged Respondent with: (a) one violation of 49 CFR 391.51(a), with a proposed civil penalty of \$740, for failing to maintain a driver qualification file on each driver employed; (b) one violation of 49 CFR 391.51(b)(2), with a proposed civil penalty of \$740, for failing to maintain in driver's qualification file inquiries into driver's driving record; and (c) one violation of 49 CFR 396.17(a), with a proposed civil penalty of \$720, for using a commercial motor vehicle not periodically inspected.³

On April 8, 2009, Respondent replied to each Notice of Claim, denying the allegations, providing its defenses, and requesting a formal hearing.⁴ On June 4, 2009, Claimant consented to a hearing for each of the two cases because Respondent had set forth various material issues of fact in dispute. We agree. Therefore, the matter is referred to the U.S. Department of Transportation's Office of Hearings.

2. Appointment of Administrative Law Judge

An administrative law judge is hereby appointed, to be designated by the Chief Administrative Law Judge of the Department of Transportation, to preside over this matter in accordance with 49 CFR 386.54, and render a decision on all issues, including the civil penalty, if any, to be imposed. The proceeding shall be governed by subparts D

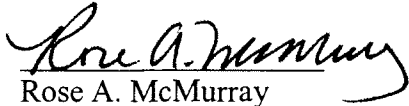
² See Government Exhibit A to Field Administrator's Consent to Hearing (Claimant's Consent to Hearing).

³ See Government Exhibit C to Claimant's Consent to Hearing.

⁴ See Government Exhibits B and D to Claimant's Consent to Hearing.

and E of 49 CFR Part 386 of the Rules of Practice and all orders issued by the
administrative law judge.

It Is So Ordered.



Rose A. McMurray
Assistant Administrator
Federal Motor Carrier Safety Administration

7.6.09
Date

CERTIFICATE OF SERVICE

This is to certify that on this 9 day of July, 2009, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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The Honorable Ronnie A. Yoder
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Lydian Meadows